

violations. All but a handful of those complaints reflect national network television broadcasts.

In spite of the congressional authority for the FCC to enforce broadcast decency on the public airwaves between 6am and 10pm, and in spite of the Commission's clear warnings to broadcast licensees that the law would be vigorously enforced, and in spite of Supreme Court decisions affirming the constitutionality of the decency law, some of the major television networks continue to act with complete and utter disregard for the law.

When Viacom-owned CBS turned a Super Bowl broadcast – the single most-watched television program every year – into a sexually-charged striptease, the American public was shocked and outraged. CBS apologized to the public and testified before Congress that it was instituting a zero-tolerance policy for indecent broadcasts. They also entered into a consent decree with this Commission, admitting that they had aired indecent material over the public airwaves but promising not to do it again. But either their promise was hollow or their memories were short, because they aired a graphic teen sex orgy scene just a month after the consent decree was announced. And when CBS was fined by the Commission for the broadcast, they didn't do as they had agreed in their consent decree. Instead they filed lawsuits declaring their right not to abide by the terms of the broadcast licenses to which they had earlier agreed to be bound. This does not serve the public interest, and not only should this corporation be denied any additional broadcast licenses, but the Commission should determine whether they are entitled to keep the licenses they currently hold. And in Los Angeles the CBS network currently holds the broadcast licenses for channel 2, KCBS; and channel 9, KCAL. They also hold the broadcast licenses for both KFWB-980 and KNX-1070, the two most prominent all-news radio stations in Los Angeles.

Over at NBC, profanity seems to rule the day. They can't seem to wait until the 10pm hour to use words like 'sh**' and 'fu**', two of the most patently offensive words in the English language. I don't need to remind you that these words may be used by broadcasters after 10pm. But the network has filed suit to use those words at any time of the day or night. And they adhere to this position while removing references to God in their broadcast of the children's program, *Veggie Tales*. They felt God would offend viewers, but 'sh**' and 'fu**' are OK. Such complete and utter hypocrisy does not serve the public interest. And in Los Angeles, the NBC network currently holds three broadcast licenses: channel 4, KNBC; channel 22, KWHY; and channel 52, KVEA.

And then there is Fox broadcasting, the network which assembled all its creative executives into one room with former Commissioner Kathleen Abernathy so they could hear her personally present the broadcast indecency standard; yet it was also the network which aired the episode of *Keen Eddie* where a prostitute was hired to have sex with a horse. This is the same network which decried that it couldn't possibly know what was indecent, so it pixilated an animated baby's bottom; but then it aired graphic scenes of prostitutes at bachelor and bachelorette parties licking whipped cream off of each other's body parts. And when they were fined by the FCC for airing indecent material before

10pm, they too filed a lawsuit. In Los Angeles, the Fox network currently holds the broadcast licenses for channel 11, KTTV; and channel 13, KCOP.

With very few exceptions, network-owned television stations do not consider community decency standards, even though this violates the terms of its stations' broadcast licenses. This is not just a problem here in Los Angeles, it is a problem across this nation. In May of 2003 the PTC conducted a survey of approximately a hundred television stations around the United States which were owned and operated by one of the four major television networks. That survey concluded that only one station – in one instance – had ever preempted a network program based on community standards of decency, and that one instance occurred over a decade ago. Because station general managers take their orders directly from the network headquarters, it comes as no surprise that they would toe the company line on programming directives issued by their corporate superiors. During the course of that station survey, the President and General Manager of the Fox-owned affiliate in Kansas City actually wrote a letter to a PTC member admitting that the network, not the station, made the programming decisions. We have heard this same complaint privately from local broadcasters around the country who continue to be threatened by the networks that they will lose their affiliate status if they preempt network programming. When local programming decisions are prohibited by a remote corporate parent, the public interest is not served.

We have also seen instances of bad faith by TV Station duopolies, i.e. where one company owns two (or more) TV stations in the same city. In those instances, network affiliates preempted programs based on indecent content, but those very same programs aired in their entirety on the other station in the same city owned by the same parent company. This programming sleight-of-hand is nothing more than a publicity stunt, intended to garner higher ratings for the non-network-affiliated station. This does not serve the public interest; it exploits the public interest.

Broadcasters of all shapes and sizes have filed lawsuits against the Commission and its indecency rulings. They say that the Supreme Court precedent is no longer valid due to technology solutions like the v-chip. But the v-chip relies on a ratings system in order to function properly. In the aforementioned Zogby poll, we asked the public to identify the ratings content descriptors: D for suggestive dialogue, L for coarse language, S for sexual content and V for violence; but 93% of those surveyed could not do so. But beyond the public knowing what the ratings mean, the accuracy of the ratings is just as important. A recent study by this organization found that television program ratings are arbitrary, capricious and inaccurate – inaccurate in fact up to 60%-80% of the time. Ratings were not just inconsistent across the various television networks, but individual networks actually rated similar content differently. One reason why the rating system is unreliable is that the networks, themselves, rate their programs. The advertisers, who are the networks' true customers, often choose not to sponsor maturely-rated programs, so the networks face a financial conflict-of-interest to rate programs accurately. The networks' decision is clear: they rate a program inaccurately and keep the advertisers' money. Both the public and the advertisers lose. This behavior, which in my opinion borders on fraud, runs counter to broadcast licensees' requirement to serve the public interest.

Sadly, the effects of media consolidation do not end here. The media mega-conglomerates use the "must carry" and "retransmission consent" rules to force their cable network properties onto cable and satellite programming bundles. Cable and satellite executives have testified before congress that the media conglomerates, and in particular, the conglomerates holding broadcast licenses, force an all-or-nothing ultimatum on the distributors. If cable subscribers want to watch the Olympics on NBC, the cable operator is forced to carry NBC's cable networks.

If you think media consolidation has stifled the broadcast industry, please listen carefully to the following statistics on cable. There are 48 cable networks bundled together on the expanded basic cable tier here in Los Angeles. Of those 48 cable networks, Viacom owns all or part of 8 of them; NBC owns all or part of 8; Disney owns all or part of 8; News Corp. owns all or part of 6; Liberty Media owns all or part of 6; oh, and the local cable operator, Time-Warner, owns all or part of 7 of those networks. To borrow a phrase from Henry Ford, you can have any cable programming you want, just so long as it is owned by one of the big media mega-conglomerates. This does not serve the public interest.

And when a handful of executives control both the broadcast networks and the cable networks, what do you think is the result on programming? Viacom's infamous Super Bowl halftime show was produced by Viacom's MTV unit, which the PTC watched for a one-week period last year and recorded 6,000 sexual references and 4,500 profanities. Over at Fox the programmers thought so much of their prostitute-horse bestiality theme that last week they gave their cable network a bestiality program: a woman satisfied her sexual desires with her dog while her husband was away, fighting in Iraq. The dog must have gotten a little rough, because we saw that it had chewed the nipple off one of her breasts, and she needed to find a plastic surgeon to fix it before her husband returned home from the war. This was not a premium channel or pay-per-view. This was on advertiser-supported basic cable. NBC is so proud of their last-place programming that they are airing reruns of it across their cable properties, including repeat broadcasts of Dateline NBC on its newest cable network called Sleuth, which it is now forcing its way onto cable systems around the country.

If the American public wants to pay a monthly fee to watch reruns of Dateline NBC, or teen-themed sex and profanity, or even a woman and her pit bull, then by-gosh the industry can offer networks to fill those needs. But they should not and must not be able to force this programming into 80-plus million homes without the consumer deciding to select and pay for that network. And for the broadcast network conglomerates to use their local broadcast licenses as a weapon to force cable and satellite operators to carry their programming is an outright affront to the public interest.

The vise-grip that the networks have on the distributors is evident from the recent entry of telephone companies into the video delivery business. There was much fanfare over the new choice that video consumers would have between a cable company and a telephone company, but neither alternative allows the consumer to select which networks

he or she wants or pays for. The anti-competitive forces facing the cable and satellite providers now appear to be firmly rooted with the telephone company alternative as well.

If some cable operators want, but are prevented, from offering consumers the ability to choose their cable network lineup; and if some satellite operators want, but are prevented, from offering consumers the ability to choose their cable network lineup; and now telephone companies want, but are prevented, from offering consumers the ability to choose their cable network lineup; then clearly there is a choke-hold on the free market. If the cable industry does not immediately move to allow consumers an ability to determine which networks they take and pay for, then we formally ask you to engage the Federal Trade Commission in an antitrust investigation over these brazen anti-competitive practices.

Chairman Martin and FCC Commissioners, obviously the news isn't all bad, and I don't mean to paint such a bleak picture. Over the course of your two sessions today, you will no doubt hear passionate and compelling testimony, questions and comments on the positive aspects – and the negative aspects – about media ownership. You will hear about the need for multiple, independent sources for news, so that differing perspectives and points of view are offered. You will hear about the immense value and need for creative and artistic expression. You will hear about the many public service efforts of radio and television stations, which will likely include sponsorship and promotion of worthy, charitable, community events. You will hear from both sides of the debate where corporate profit and public interest seem to collide. And you will hear different perspectives on the issue of broadcast decency. While I'm sure you will take each and every comment to heart when determining the Commission's media ownership policies, I urge you – urge you – not to be deceived or distracted by slick, expensive, PR-spun sound bites. Listen to everything, and base your policy decisions on what best serves the public interest.

Thank you.

Congresswoman Maxine Waters
Talking Points/Outline
FCC Hearing, Media Ownership
October 3, 2006

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Federal Communications Commission
Office of the Secretary

I thank you for holding these hearings in Los Angeles. It is very important that you be here in Los Angeles – perhaps one of the most important media markets in the world. We are dealing with a serious issue. Media concentration and consolidation is a very serious issue. Without diversity in ownership and participation, our democracy is in danger. The public must have access to information and all points of view.

I just left a meeting of the County Board of Supervisors where we were in serious discussions about saving Martin Luther King, Jr. Hospital. This Hospital has been in a crisis for over two years. There has been a crisis because the *LA Times* launched an attack on Martin Luther King Hospital, and the attack was absolutely unbelievable – the amount of time and the team it deployed in order to conduct its investigation. The amount of effort that they put into closing Martin Luther King Hospital was unbelievable. As a matter of fact, many of us have come to believe that the *Times* decided that it wanted to get a Pulitzer rather than investigating the Hospital to make sure it was providing quality healthcare services. Well, it accomplished part of what it attempted to do – they helped to close our Trauma Center, and it did get a Pulitzer Prize. Many of us believe that if the Hospital is closed altogether, the *Times* will get a second Pulitzer Prize.

The *LA Times* newspaper and KTLA are owned by the Tribune Company. This combination violates the FCC newspaper broadcast ownership rules. The *LA Times* alone generated \$1.1 billion in 2004 revenue – which was more than its 27 stations and its entertainment division generated together. Tribune owns KTLA – major local TV station and the largest newspaper in the Los Angeles area. Under the ownership rules, the Tribune Company should have sold off either the TV station or the newspaper prior to this year's renewal of its TV broadcast license. In response to this situation, the Tribune Company has requested either a permanent or a temporary waiver of the FCC rules until the FCC has completed its ownership hearings and has adopted a new rule. Public opposition to the waiver request is due by November 1, and I plan to submit a lot of opposition. Not only am I opposed, but my community is opposed to this kind of concentration and consolidation.

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In 2004, the Tribune Company made \$5.7 billion in revenue by controlling the major markets. It owns 27 full-power television stations in 22 cities – which include KTLA in Los Angeles. Furthermore, it has an equity interest in the TV Food Network and owns two major cable channels – CLTV, which is the 24-hour Chicago news channel, and WGN Cable – otherwise known as the “WGN Superstation.” Tribune’s presence in the print media world is extraordinary. I took a look at the newspapers in our community – a few small newspapers – the *LA Sentinel*, *Daily Breeze*, *The Wave*, *LA Weekly*, and the *Watts Times*. In Los Angeles, the Tribune’s major paper – the *L.A. Times*, has a Sunday circulation of 1.4 million – that exceeds the circulations of 14 local newspapers combined!

Tribune controls video and print media around the nation as well – it owns 25 major newspapers, 10 magazines, 12 publishing houses – in addition to LA Times Communications, one production company, part of the Chicago Cubs baseball team, part of the CareerBuilder employment service company, part of six major media subsidiaries or partnerships such as Tribune Media Services, Zap 2 It, and Brass Ring. Not only does it control sources of what we read and see on the television or at the movies, it owns one of the top radio stations in the nation – WGN-AM radio in Chicago. If that is not concentration, I don’t know what is.

When *LA Times* decided it would win a Pulitzer Prize on the backs of the people of South Central Los Angeles with a scathing attack on the Hospital - with undercover agents in the Hospital trailing and chasing doctors, putting them under surveillance, we did not have another point of view. We did not have anybody with the resources to counter what it was doing. We did not have any newspapers that could put out a team of investigators. We did not have radio stations with the background information and the amount of dollars necessary to deal with this. We are in a crisis now, and we are trying to save our Hospital. The one thing that I want to ensure is that you do not make the mistake of giving the *Los Angeles Times* a waiver – they do not deserve it.